

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tracey Jones	:	
	:	
v.	:	C-2025-3055771
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Decision dismisses the Formal Complaint with prejudice for the failure of Complainant to appear for the hearing and prosecute the Complaint.

HISTORY OF THE PROCEEDING

On June 12, 2025, Tracey Jones (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent). In her Complaint, Complainant requested review of the delivery and supply charges on her January, February, March, and April 2025 gas bills. The Complaint was served on Respondent on June 17, 2025.

In her Complaint, Complainant selected the option to receive all communications from the Commission via email at the email address provided by Complainant on the Complaint. Complaint ¶ 9.

On July 7, 2025, Respondent filed an Answer in which it denied the material allegations of fact and conclusions of law in the Complaint. Respondent requested that the Complaint be dismissed.

On July 16, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on Tuesday, September 23, 2025, at 10:00 a.m. and the case was assigned to me. The Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The Hearing Notice further stated as follows:

FAILURE TO APPEAR. You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

CONTINUANCES. You may request a continuance of the hearing if you have a good reason. All continuances will be granted only for good cause. To request a continuance, you must submit a written request (a “motion”) at least five (5) days before the hearing. Your motion should include: 1) The case name, number, and hearing date; 2) The reason for the request; and 3) Whether the other party agrees (or if you do not know).

On July 16, 2025, a Prehearing Order was served on the parties. The Prehearing Order indicated that the scheduled initial telephonic hearing was scheduled for Friday, September 23, 2025, at 10:00 a.m. The Prehearing Order again stated the failure to appear warning. Additionally, the Prehearing Order informed the parties about

the applicable procedural rules and again included the procedure to follow for hearing continuances.

The Hearing Notice and Prehearing Order were electronically served to Complainant in the ordinary course of the Commission's business to the email address she provided to the Commission. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On Tuesday, September 23, 2025, the hearing was convened as scheduled. Tracy Tripp, Esquire, appeared on behalf of Respondent along with a witness and was ready to proceed. The court reporter was also present. Complainant was not present to start the hearing. After a short recess to allow time for Complainant to appear, the hearing proceeded in Complainant's absence. No testimony was taken, and no exhibits were introduced into the record. Attorney Tripp noted on the record that she had attempted to call Complainant on September 4 and 15, 2025, but that Complainant did not return her phone calls. Tr. 6-7. Attorney Tripp further noted that she sent proposed hearing exhibits by email to Complainant on September 16, 2025, and that Complainant did not respond to her email. Tr. 7-8. I noted on the hearing record that the Prehearing Order mistakenly listed the day of the week for the hearing as a Friday. Tr. 5. Therefore, I stated that if Complainant reached out to the Commission and indicated that she missed the hearing because she believed the hearing to be scheduled for Friday, September 26, 2025, that I would schedule a further hearing to be held in this matter. Tr. 8. To close the hearing, Respondent moved to dismiss the Complaint with prejudice for Complainant's failure to appear and prosecute her Complaint. *Id.* I took this Motion under advisement. *Id.*

Complainant has not contacted the Commission to indicate that she believed the hearing to have been scheduled for Friday, September 26, 2025, nor has she

contacted the Commission to otherwise explain why her failure to appear at the hearing was unavoidable.

The record closed on October 3, 2025, the date I received the electronic transcript of the hearing. This Decision grants the Respondent's Motion to Dismiss the Complaint with prejudice.

FINDINGS OF FACT

1. The Complainant is Tracey Jones.
2. The Respondent is Philadelphia Gas Works.
3. On June 12, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 7, 2025, Respondent filed an Answer to the Complaint.
5. On July 16, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on Tuesday, September 23, 2025, at 10:00 a.m.
6. On July 16, 2025, a Prehearing Order was served on Complainant indicating that the scheduled initial telephonic hearing was scheduled for Friday, September 23, 2025, at 10:00 a.m. and providing additional information to the parties regarding the hearing.

7. Both the Hearing Notice and Prehearing Order were served on Complainant by electronic mail to the email address Complainant provided to the Commission.

8. Both the Hearing Notice and Prehearing Order provided the Complainant with the toll-free bridge telephone number and PIN to call and participate in the hearing, and, *inter alia*, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

9. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

10. Complainant failed to appear and participate in the scheduled telephonic hearing on Tuesday, September 23, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the September 23, 2025, hearing.

12. Complainant has not contacted the Commission to indicate that she believed the hearing to have been scheduled for Friday, September 26, 2025.

13. Complainant has not contacted the Commission to explain why her failure to appear at the hearing was unavoidable.

DISCUSSION

Due Process and Notice

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984). This due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Id.*

The record shows that Complainant was provided notice and the opportunity to be heard. First, on July 16, 2025, Complainant was served a Hearing Notice which scheduled an initial telephonic hearing for Tuesday, September 23, 2025, at 10:00 a.m., and advised the parties on how to participate in the hearing. Second, on July 16, 2025, Complainant was served a Prehearing Order which reminded the parties that the hearing was to take place on September 23, 2025, at 10:00 a.m., but mistakenly indicated that the hearing day was a Friday. The Prehearing Order also reminded the parties of how to participate in the hearing. Further, both documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, both documents advised Complainant that failure to appear may result in dismissal with prejudice, which means that Complainant would be barred from filing another complaint, raising the same claim and issues presented in the dismissed complaint.

Both the Hearing Notice and Prehearing Order were electronically served to the email address provided by Complainant to the Commission. Neither was returned to the Commission as undeliverable. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila.*

Gas Works, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

Complainant had notice of the hearing and an opportunity to be heard in this proceeding. Therefore, the Complainant's due process rights have been fully protected. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

Failure to Appear, Waiver and the "Unavoidable" Standard

Once a hearing is scheduled and the parties are duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002). Both the Public Utility Code and the Commission's regulations provide that, after being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing and shall not be permitted to later reopen the matter or be permitted to recall excused witnesses. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a). However, these provisions in the Code and in the Commission's regulations do not apply if the presiding officer determines that the party's failure to appear at the hearing was unavoidable and that the interests of the other parties and of the public would not be prejudiced by permitting the reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(b).

The party who failed to appear at the hearing has the burden of explaining why her failure to appear was unavoidable. 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022). When there are no facts in the record that the party's failure to appear was unavoidable, the complaint should be dismissed with prejudice. *Brown v. PPL Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh*

Water & Sewer Auth., Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. PPL Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

Complainant failed to appear for the hearing despite receiving notice and despite the undersigned allowing additional time for Complainant to appear. To date, there has been no communication to the Office of Administrative Law Judge (OALJ) or me by, or on behalf of, Complainant explaining why Complainant's failure to appear at the hearing was unavoidable. Regarding the day of the week error in the Prehearing Order, there has been no communication to the OALJ by, or on behalf of, Complainant explaining that she believed the hearing to be scheduled for Friday, September 26, 2025.

Consequently, I find that Complainant waived the opportunity to participate in a hearing on the matters raised in the Complaint and Complainant's absence was not unavoidable, and the Complaint should be dismissed with prejudice.

Burden of Proof and Dismissal of Complaint

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

As the proponent of any request for relief, Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaint, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown v. PPL Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PPL Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995)). Accordingly, the merits of the Complaint will not be addressed.

Respondent's Motion to Dismiss with prejudice will be granted in the Ordering paragraphs below.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The Commission is required to provide due process to the parties appearing before them; this due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).
3. Notice electronically served to a party with no notification that service failed is presumed received. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

4. After being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing and shall not be permitted to later reopen the matter or be permitted to recall excused witnesses. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

5. If there are no facts in the record that a party's failure to appear at a hearing was unavoidable, the complaint should be dismissed with prejudice. *Brown v. PPL Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. PPL Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995).

6. Complainant's due process rights have been fully protected and Complainant's failure to appear was not unavoidable. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

7. As the party seeking relief, Complainant bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

8. By failing to participate in the hearing and proffer any evidence to support the Complaint, Complainant has failed to meet the burden of proof. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works's Motion to Dismiss the Formal Complaint with prejudice of Tracey Jones v. Philadelphia Gas Works at Docket No. C-2025-3055771 is granted.

2. That the Formal Complaint filed by Tracey Jones in Tracey Jones v. Philadelphia Gas Works, Docket No. C-2025-3055771, is hereby dismissed with prejudice.

3. That the Secretary's Bureau shall mark Docket No. C-2025-3055771 as closed.

Date: October 27, 2025

/s/
Alphonso Arnold III
Administrative Law Judge